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atinia Clille **Bankruptcy Judge**

Dated: May 8th, 2013

So Ordered.

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF WASHINGTON

10	In re:	US District Case No. 12-CV-445-RMP
11	LLS AMERICA, LLC,	
12	Debtor.	Bankruptcy No. 09-06194-PCW11
13	DDLICE D. KDIECMANI. as1s1s in	
14	BRUCE P. KRIEGMAN, solely in his capacity as court-appointed Chapter 11 Trustee for LLS America,	
15	LLC, Chapter 11 Trustee for LLS America,)	
16	Plaintiff,	Adv. No. 11-80196-PCW
17	vs.)) REPORT AND RECOMMENDATION
18	OLD ORCHARD CAMPGROUND,	RE: PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT (ECF NO. 34)
19	Defendant.) DEFAULT JUDUMENT (ECF NO. 54)
20))

The Honorable Patricia C. Williams, sitting in the United States Bankruptcy Court for the Eastern District of Washington, hereby files this Report and Recommendation regarding plaintiff's Motion for Default Judgment (ECF No. 34) filed with the bankruptcy court in this adversary proceeding.

This Report and Recommendation is made pursuant to the Honorable Rosanna Malouf Peterson's Order Withdrawing the Reference and Referring to Bankruptcy Court for Further Proceedings entered on July 10, 2012 (ECF No. 2) in district court case No. 12-CV-00445-RMP.

REPORT AND RECOMMENDATION RE: . . . - Page 1

The Recommendation is that plaintiff's Motion for Default Judgment (ECF No. 34) be granted and the attached Default Judgment be entered in this adversary proceeding. The basis for this recommendation is that a Clerk's Order of Default was entered by the District Court on October 12, 2012 (ECF No. 14). /// END OF REPORT AND RECOMMENDATION ///

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REPORT AND RECOMMENDATION RE: . . . - Page 2

Shelley N. Ripley, WSBA No. 28901 1 Michael D. Currin, WSBA No. 14603 WITHERSPOON • KELLEY 2 422 W. Riverside, Suite 1100 Spokane, WA 99201 4 Telephone: (509) 624-5265; Facsimile: (509) 458-2717 Attorneys to Bruce P. Kriegman, Chapter 11 Trustee 5 6 7 UNITED STATES BANKRUPTCY COURT 8 EASTERN DISTRICT OF WASHINGTON 9 In Re: US District Case No. 12-CV-445-RMP 10 11 LLS AMERICA, LLC, Bankruptcy No. 09-06194-PCW11 12 Debtor. 13 14 BRUCE P. KRIEGMAN, solely in his Adversary No. 11-80196 -PCW 11 capacity as court-appointed Chapter 11 15 Trustee for LLS America LLC, DEFAULT JUDGMENT 16 Plaintiff, 17 V. 18 19 OLD ORCHARD CAMPGROUND, 20 Defendant. 21 22 This Court having previously entered an Order of Default against Defendant Old 23 Orchard Campground (Ct. Rec. 14), and having reviewed the previously filed 24 Memorandum of Authorities (Ct. Rec. 12), and the Affidavits of Curtis Frye and Daniel 25 J. Gibbons in Support of Plaintiff's Motion for Default Judgment filed herewith, and 26 27 being fully advised in the premises, 28 WK WITHERSPOON·KELLEY Default Judgment- 1

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{S0685344; 1 }

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DEFAULT JUDGMENT- 2

{S0685344; 1 }

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff, Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11 Trustee for LLS America, LLC, shall have a judgment against the Defendant Old Orchard Campground, as follows:

- 1. Monetary Judgment in the amount of CAD \$103,752.33, pursuant to 11 U.S.C. § 550 and RCW 19.40.071;
- 2. Transfers in the amount of CAD \$103,752.33 made to the Defendant within four years prior to the Petition Filing Date are hereby avoided and Plaintiff may take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544, 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and RCW 19.40.071;
- 3. All said transfers to Defendant Old Orchard Campground are hereby set aside and Plaintiff shall be entitled to recover the same, or the value thereof, from Defendant Old Orchard Campground for the benefit of the estate of LLS America, pursuant to 11 U.S.C. §§ 544, 550 and 551;
- 4. All proofs of claim of the Defendant which have been filed or brought or which may hereafter be filed or brought by, on behalf of, or for the benefit of Defendant Old Orchard Campground or its affiliated entities, against the Debtor's estate, in this bankruptcy or related bankruptcy proceedings, are hereby disallowed and subordinated to the monetary judgment granted herein and Defendant Old Orchard Campground shall not be entitled to collect on its proof of claim (Claim No. 425-1) until the monetary judgment is satisfied by Defendant Old Orchard Campground in full, pursuant to 11 U.S.C. §§ 502(d), 510(c)(1) and 105(a);

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1	5. A constructive trust is hereby established over the proceeds of all		
2	transfers in favor of the Trustee for the benefit of the estate of LLS America; and		
3	6. Plaintiff is hereby awarded costs (i.e. filing fee) in the amount of		
4	\$250.00 USD, for a total judgment of CAD \$103,752.33, plus \$250 USD, which		
5			
6	shall bear interest equal to the weekly average of one-year constant maturity		
7	(nominal) treasury yield as published by the Federal Reserve System.		
8	Entered this day of, 2013.		
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11	HONORABLE ROSANNA PETERSON		
12	TIOTORGIBLE ROSERVINE ETEROCIV		
13	Presented by:		
14	WITHERSPOON · KELLEY s/ Daniel J. Gibbons		
15			
16	Shelley N. Ripley, WSBA No. 28901 Daniel J. Gibbons, WSBA No. 33036		
17	Attamazza for Drugo Vinigarran Chantan 11 Trustan		
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	DEFAULT JUDGMENT- 3 WY WITHERSPOON•KELLEY		
	Attorneys & Counselors		

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